

## **REMARKS**

### ***Summary of Notice of Non-Compliant Amendment***

In the Notice of Non-Compliant Amendment mailed on July 10, 2008, the Examiner rejected the previously submitted Amendment because Claim 22 contained a paragraph identifier that was not properly underlined to indicate new text. In response, Applicants have changed the amendment with regard to Claim 22 to indicate that it contains new text. The remainder of the Response to Office Action as previously filed on December 21, 2007, has been unchanged and is submitted herein again. Accordingly, entry of the various amendments herein is respectfully requested.

### ***Summary of Office Action***

In the Office Action, the Examiner objected to the amendment to the specification for allegedly introducing new matter. The Examiner also rejected Claims 1-27, 29-44, 46, and 47 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. Additionally, the Examiner rejected Claims 1-27, 29-44, 46, and 47 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

### ***Summary of Amendments***

Upon entry of the present Response to Office Action, Claims 1, 20, 22, and 41 and Paragraphs 0014 and 0026 of the Specification will have been amended. Additionally, Claims 2-6, 8, 9, 23-27, 29, and 30 will have been cancelled and new Claims 49-53 will have been added. As such, Claims 1, 10-22, 31-44, 46, 47, and 49-53 remain currently pending. By the present amendment, Applicants submit that the rejections have been overcome and respectfully requests reconsideration of the outstanding Office Action. Applicants submit that the present amendments contain no new matter and support for the same may be found at least at Paragraphs 0021, 0059, and 0084 of the application as originally filed.

***Applicants' Response***

1. Objection to the Specification

The Examiner objected to the amendment to the Specification submitted on July 11, 2007, for allegedly introducing new matter. Although Applicants respectfully disagree with the Examiner's contention that the amendment contains new matter, in order to expedite prosecution the allegedly new matter has been removed from the specification. Accordingly, Applicants respectfully request that this objection be withdrawn.

2. Section 112, First Paragraph, Rejections

The Examiner rejected Claims 1-7, 8-27, 29-44, 46, and 47 for failing to comply with the enablement and written description requirements. *Office Action, Pages 3 and 4*. In regard to the enablement rejection, the Examiner submitted that the specification is not enabled for the newly added limitation of the artificial lipid based media not being attractive to arthropods which are parasitic to a vertebrate host. *Office Action, Page 4*. The Examiner further contends that the prior art teaches that the majority of claimed lipids are attractive to parasitic arthropods and that the specification does not provide reliable disclosure to guide in determining which lipids support this limitation. *Id.* In regard to the written description rejection, the Examiner admits that the specification teaches that triglycerides are not attractive to arthropods, but contends that the concept of non-attractive lipids is not broadly drawn to the other disclosed lipids. *Office Action, Page 5*. The Examiner then submits that the non-attractive lipids limitation is therefore new matter with regard to the other lipids. *Id.* Finally, the Examiner withdrew the previous rejection of Claims 1-6, 8-27, 29-44, 46, and 47 under 35 U.S.C. § 103(a); however, the Examiner stated that this rejection would be reinstated if Applicants removed the non-attractive lipids limitation, pending other amendments. *Id.*

By this response, Applicants have removed the limitation of a lipid based media “that is not attractive to arthropods which are parasitic to a vertebrate host” from all claims containing the limitation, i.e., independent Claims 1, 20, 22, and 41. Accordingly, Applicants respectfully request that the enablement and written description rejections of Claims 1, 10-22, 31-42 be withdrawn.

In regard to the potential reinstatement of a 35 U.S.C. § 103(a) rejection of Claims 1, 10-22, 31-42 as being unpatentable over U.S. Patent No. 6,267,953 issued to Bernier et al. (hereinafter “Bernier”) in view of the Braks et al. article (hereinafter “Braks”), Applicants respectfully submit that independent Claims 1, 20, 22, and 41 have been amended to add new elements which are novel and non-obvious in view of the Bernier and Braks references, either taken alone or in combination.

In particular, Claims 1 and 22 have been amended to include the language “wherein the lipid based media is selected from the group consisting of lard and jojoba bean oil.” Applicants respectfully submit that the Bernier and Braks references do not teach or suggest the use of either lard or jojoba bean oil, and that these claims are allowable at least for that reason.

Furthermore, Claims 20 and 41 have been amended to include the language “wherein the arthropod ensnaring device is selected from the group consisting of a dome trap, a cylinder trap, a bucket trap, a box omni trap, a vane trap, and a box trap.” Applicants respectfully submit that the cited references do not teach or suggest the use of traps for ensnaring arthropods, let alone the particular traps recited in Applicants’ independent Claims 20 and 41. Accordingly, Applicants submit that Claims 20 and 41 are novel and non-obvious over the cited references.

Applicants further submit that the Claims 10-19, 21, 31-40, and 42 are allowable at least for the reason that these claims depend on allowable independent Claims 1, 20, 22, or 41 and because these claims recite additional features that further define the present invention.

In regard to Applicants’ Claims 43, 44, 46, and 47, Applicants respectfully submit that the Examiner improperly rejected them under 35 U.S.C. § 112, first paragraph. Notably, none of these claims include the limitation of a lipid based media “that is not attractive to

arthropods which are parasitic to a vertebrate host” that was the subject of the § 112 rejections. Accordingly, Applicants respectfully submit that at least these claims are allowable.

Furthermore, these claims contain the element of “...*providing a single lipid selected from the group consisting of glycerides, sterols, sterol esters, sterol phosphates, sterol precursors, wax, wax esters, wax alcohols, and wax aldehydes....*” Applicants respectfully submit that Bernier absolutely requires a synergistic blend of a formula I compound and a group II compound. In contrast, these claims use only a single lipid chosen from a limited group as recited in the claims. As such, it would appear that Applicants’ independent Claims 43 and 46 have not been shown to be obvious in light of the cited prior art references and the previous 35 U.S.C. § 103(a) rejection should not be reinstated in regard to these claims. Applicants further submit that the Claims 44 and 47 are allowable at least for the reason that these claims depend on allowable independent Claims 43 and 46, respectively, and because these claims recite additional features that further define the present invention.

### 3. New Claims

New Claims 49 and 50 are directed toward the lipid based media being either lard or jojoba bean oil. These claims are fully supported by the application as originally filed and are believed to be novel and non-obvious in light of the cited references.

New Claims 51-53 are directed toward a method for capturing parasitic arthropods. Neither Bernier nor Braks, as currently understood, teach a method for capturing parasitic arthropods, let alone a method comprising the steps recited in these claims.

Accordingly, Applicants respectfully submit that new Claims 49-53 are in condition for immediate allowance. Early notice to that effect is respectfully requested.

***Conclusion***

Applicants respectfully submit that each and every pending claim of the present invention meets the requirements for patentability under 35 U.S.C. §§ 112, 102, and 103, and respectfully request that the Examiner indicate allowance of each and every pending claim of the present invention.

In view of the foregoing, it is submitted that none of the references of record, either taken alone or in any proper combination thereof, anticipate or render obvious Applicants' invention as recited in each of Claims 1, 10-22, 31-44, 46, 47, and 49-53. The references of record have been discussed and distinguished, while significant claim features of the present invention have been pointed out.

Accordingly, reconsideration of the outstanding Office Action and allowance of the present application and all the claims therein are respectfully requested and now believed to be appropriate.

If any additional fee is required, please charge Deposit Account Number 19-4330.

Respectfully submitted,

Date: 11/20/08

By:



Customer No.: 007663

Eric L. Tanezaki  
Registration No. 40,196  
STETINA BRUNDA GARRED & BRUCKER  
75 Enterprise, Suite 250  
Aliso Viejo, California 92656  
Telephone: (949) 855-1246  
Fax: (949) 855-6371

BND